

Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Examine the Commission's Post-2008 Energy Efficiency Policies, Programs, Evaluation, Measurement, and Verification, and Related Issues.

Rulemaking 09-11-014
(Filed November 20, 2009)

**DECISION GRANTING COMPENSATION TO THE NATIONAL CONSUMER LAW
CENTER FOR SUBSTANTIAL CONTRIBUTION TO DECISION 12-05-015**

Claimant: National Consumer Law Center (NCLC)	For contribution to Decision (D.) 12-05-015
Claimed: \$55,382.65 ¹	Awarded: \$54,948.80 (reduced 0.78%)
Assigned Commissioner: Michael R. Peevey	Assigned ALJs: Julie Fitch and Darwin E. Farrar

PART I: PROCEDURAL ISSUES**A. Brief Description of Decision:**

D.12-05-015 directs Pacific Gas and Electric Company, Southern California Edison Company, San Diego Gas & Electric Company, and Southern California Gas Company to file applications to establish energy efficiency programs and budgets for 2013 and 2014. The decision gives guidance to the utilities with the overall direction that they should begin a transition away from short-lived energy savings and towards deeper retrofits. The decision also gives guidance on expanding energy efficiency financing, and establishes the parameters by which the IOUs will design their portfolios and propose program budgets for 2013-2014.

¹ The original Claim lists the total amount requested as \$55,732.68. However, after reviewing NCLC's submitted timesheets and math in this claim, there were errors. The correct amount claimed by NCLC in this proceeding is \$55,382.65. This edit is reflected in this award decision.

B. Claimant must satisfy intervenor compensation requirements set forth in Public Utilities Code §§ 1801-1812:

	Claimant	CPUC Verified
Timely filing of notice of intent to claim compensation (NOI) (§ 1804(a)):		
1. Date of Prehearing Conference:	3/18/2010	Verified
2. Other Specified Date for NOI:		
3. Date NOI Filed:	1/26/2012	Verified
4. Was the NOI timely filed?		No; however the Commission accepts NCLC’s explanation in the comment section below.
Showing of customer or customer-related status (§ 1802(b)):		
5. Based on ALJ ruling issued in proceeding number:	R.10-02-005	Verified
6. Date of ALJ ruling:	4/1/2010	Verified
7. Based on another CPUC determination (specify):		
8. Has the Claimant demonstrated customer or customer-related status?		Yes
Showing of “significant financial hardship” (§ 1802(g)):		
9. Based on ALJ ruling issued in proceeding number:	R.09-11-014	Verified
10. Date of ALJ ruling:	2/27/2012	Verified
11. Based on another CPUC determination (specify):		
12. Has the Claimant demonstrated significant financial hardship?		Yes
Timely request for compensation (§ 1804(c)):		
13. Identify Final Decision:	D.12-05-015	Verified
14. Date of Issuance of Final Order or Decision:	5/18/2012	Verified
15. File date of compensation request:	7/17/2012	Verified
16. Was the request for compensation timely?		Yes

C. Additional Comments on Part I:

#	Claimant	CPUC	Comment
	X		On February 27, 2012, ALJ Fitch issued a ruling that accepted NCLC's motion to accept its late-filed NOI and found NCLC had satisfied the eligibility requirements of Pub. Util. Code § 1804(a); has shown significant financial hardship, and has been preliminarily determined eligible for intervenor compensation. On January 10, 2012, ALJ Fitch issued a ruling regarding energy efficiency financing that was "issued specifically on the topic of financing,

		<p>separate from and parallel with, other programmatic areas covered in the December 7, 2011 ruling.” (ALJ’s Ruling Regarding Energy Efficiency Financing, January 10, 2012 at 3). NCLC was not aware that financing would be addressed in such a focused manner until this ruling and filed to become a party and filed a motion for acceptance of our late-filed NOI. On February 3, 2012 ALJ Fitch’s email to all parties served as an informal ruling granting NCLC’s motion for party status and on March 9, 2012 the ALJ’s ruling officially granted NCLC’s motion for party status. NCLC’s participation on R.09-11-014 has been limited to the impact on low-income residential consumers of the issues raised in the deliberation of energy efficiency financing stemming from the ALJ’s January 10, 2012 ruling.</p>
--	--	--

PART II: SUBSTANTIAL CONTRIBUTION

A. In the fields below, describe in a concise manner Claimant’s contribution to the final decision (*see* § 1802(i), § 1803(a) & D.98-04-059).

Contribution	Specific References to Claimant’s Presentations and to Decision ²	Showing Accepted by CPUC
<p><i>Deferring OBR for Residential Family</i></p> <p>As is demonstrated in this section, NCLC’s participation in this docket provided a substantial contribution to the breadth and depth of the analysis of whether energy efficiency loans should be targeted to residential consumers. In this proceeding NCLC has advocated that California not rush into residential single family OBR until the complex legal, procedural and program issues are resolved and there is enough of a track record to demonstrate these loan products can work for residential consumers. NCLC urged caution in regard to the Commission’s proposed goal to broaden the range of borrowers who undertake energy efficiency investments.</p>	<p><i>Deferring OBR for Residential Single Family</i></p> <p>D.12-05-015 acknowledges the growing awareness of how complicated the creation of a new loan product is:</p> <p>“We have learned that, in general, developing energy efficiency financing programs and solutions is a complex undertaking, and involves the intersection of at least five different worlds . . . ”</p> <p>(consumer lending, payments and property law; financial markets gauging of risk for new loan products; measurement of efficiency savings and quality</p>	<p>Yes</p>

² The National Consumer Law Center (NCLC) Comments referenced in this filing are in response to the January 10, 2012 ALJ Ruling on Energy Efficiency Financing. They are: (1) Comments filed on January 25, 2012 (NCLC Jan. 25, 2012 Comments); (2) Reply Comments filed on January 30, 2012 (NCLC Jan. 30, 2012 Reply Comments); (3) Comments filed on February 22, 2012 (NCLC Feb. 22, 2012 Comments); (4) Reply Comments filed on February 29, 2012 (NCLC Feb. 29, 2012 Reply Comments); (5) Comments filed on April 9, 2012 (NCLC April 9, 2012 Comments); and (6) Reply Comments filed April 16, 2012 (NCLC April 16, 2012 Reply Comments).

<p>NCLC cited the recent financial crises and the dangers of extending credit to borrowers who could not support the loan repayments.</p> <p>NCLC participated in the 3-day energy efficiency financing workshop to better weigh program designs for the residential market in California in the subsequent rounds of post-workshop comments. A strong concern emerged that OBF and OBR are still in their nascency. It does not appear possible to fairly and appropriately allocate the risks among the parties to entice the uptake of these loans on a large scale. The Decision cited this concern. (NCLC Feb. 22, 2012 Comments at 2)</p> <p>NCLC's policy recommendation include the following:</p> <ul style="list-style-type: none"> • <i>Test out products before exposing vulnerable consumers to risk</i> <p>NCLC challenged the assumption that net neutrality could be assured with residential efficiency loans. Energy prices, individual consumption patterns, underlying assumptions about the persistence of savings introduce great variability. Absent a guarantee of positive cash flow, NCLC urged that financing not be extended to borrowers who could not bear the risk of net neutrality failing. (NCLC Jan. 25, 2012 Comments at 3-4; NCLC Feb 29, 2012 Reply at 2)</p>	<p>assurance; marketing and sale practices, and consumer protections and low-income services advocacy). (D.12-05-015 at 97)</p> <p><i>See also</i> D.12-05-015 at 106, "As is apparent from the January 10, 2012 ALJ ruling on financing, multiple rounds of comments from parties, and three full days of workshops hosted by Commission Staff, energy efficiency financing is an extremely complex and multi-faceted issue."</p> <p>The Decision cites specifically to NCLC's concern, to sum up the step away from on-bill repayment for residential consumers: "It is not clear that on-bill repayment for residential customers can be designed in a manner that can fairly and appropriately balance the risk to the consumers and ratepayers in general, with the risks to the providers of private capital and the risks to utilities in a manner that can entice all three interests to embrace these efficiency loans on a large scale."</p> <p><i>The decision defers the establishment of an on-bill financing/repayment product for residential consumers and instead focuses on making loans more attractive through credit enhancements.</i></p> <p>D.12-05-015 at 117, "Note that this list does not, at this time, include pursuit of an on-bill repayment strategy for the whole residential market."</p>	
--	---	--

	<p>D.12-05-015 at 118, “For the single-family residential market, the most promising option appears to be design of a credit enhancement strategy.”</p> <p>D.12-05-015 at 121, “As noted above, we do not require, at this time, the development of an on-bill repayment program for single-family residential customers. There are many reasons for this. While intuitively it seems natural that residents are more likely to pay their utility bills than other types of obligations . . . it is not clear how much of an advantage that would provide to financial entities able to offer interest rate reductions compared to the history of how consumers pay other unsecured debt such as credit card charges.”</p> <p>D.12-05-015 at 97, “We expect this list provides all the more reason to embark on a path to test out financing products and means of delivery, as well as utilize outside experts to help engage stakeholder input into program designs, and then to scale up successful mechanisms.”</p> <p><i>See also</i> D.12-05-015 at 107, “[I]t becomes apparent that there is no “one size fits all” approach that will work for all customer segments and all market actors. Instead a portfolio of approaches will be necessary.</p> <p><i>The Decision limits efficiency product to a controlled pilots for multifamily housing.</i></p>	
--	---	--

<ul style="list-style-type: none"> • <i>Protect low-income and credit challenged households</i> <p>NCLC recommended targeting non-low income utility customers first as they would best be able to bear the risk if the loan products do not perform as expected and that financing not be expanded beyond these initial groups without a demonstration that the financial products work as intended and energy savings are achieved as assumed. (NCLC Jan. 25, 2012 Comments at 2, 6, 7-8)</p> <p>NCLC urged the Commission to exclude CARE-eligible households from the OBF/OBR products, at least until there is a proven track record that these products do not increase energy insecurity or endanger housing. NCLC also pointed out that for low-income households there is a particular benefit to retaining all savings from energy efficient improvements to pay for and retain access to basic energy service. (NCLC Jan. 25, 2012 Comments at 3, 5, 7-8; NCLC Feb 29, 2012 Reply at 3-4; NCLC April 9, 2012 Comments at 2-3)</p> <p>As discussed below, NCLC engaged in negotiations with CHPC to develop a list of necessary consumer protections in the context of a low-moderate income multifamily financing pilot.</p>	<p>D.12-05-015 at 116-117, “After reviewing multiple rounds of parties’ comments on the January 10, 2012 ALJ ruling on financing, as well as experts’ comments at the workshops, we are selecting a few promising market segments for which we require the utilities and the consultant . . . pursue the design and development of financing program options to be piloted in 2013 and scaled up in 2014.” For the residential market, the decision focuses on a credit enhancement strategy for the single-family residential market and a financing program strategy for the multifamily residential market “that includes both credit enhancement and an on-bill repayment option (and/or tariff-based energy efficiency improvement reimbursement mechanism) that may require legislative change to fully implement. Variations in program structure or terms may be appropriate to ensure the ability to engage customers and building owners from both a) low-moderate income and b) moderate-high income multifamily residential market segments.”</p> <p>D.12-05-015 at 124 “there is already a well-developed financial infrastructure in the existing marketplace in the form of home equity loans for larger and more expansive projects for homeowners with strong credit. While these mechanisms may not be robust enough in the current housing market to be able to serve the majority of homeowners who do not have high credit scores and/or</p>	
--	---	--

<ul style="list-style-type: none"> • Recommendation to seek outside expertise <p>NCLC also noted that the creation of new financial service products requires expertise outside of the traditional scope of the Commission. NCLC stressed the importance of taking the time and the steps to get it right. (NCLC Feb 29, 2012 Reply at 4-5)</p> <ul style="list-style-type: none"> • <i>Protections for Problems With the Loan</i> <p>NCLC highlighted key consumer protections, including protection from disconnection, harm to credit scores and protection from secured loans that could lead to foreclosure.</p> <p>(NCLC Jan. 25, 2012 Comments at 6, 7-8)</p> <ul style="list-style-type: none"> • <i>Transferability of the Loan</i> <p>NCLC urged the Commission to address what happens to subsequent owners and tenants who are asked to assume the loan repayment attached to the meter when the savings for these subsequent consumers is not commensurate with the loan payments due to factors such as household size or a different usage profile. NCLC also raised the issue of what happens to the debt obligation in the case of a prolonged vacancy. (NCLC Jan. 25, 2012 Comments at 2-3; NCLC Feb 22, 2012 Comments at 13; NCLC April 16, 2012 Reply at 2-3)</p> <p>NCLC recommended that the Commission not move forward with residential OBR until the issues around the transfer of a loan</p>	<p>significant equity in their homes, it is not clear that on-bill repayment, on its own, will be able to make significantly more financing or better rates and terms available to those who have access to home equity loans at this point in time.”</p> <p><i>Outside expertise</i></p> <p>D.12-05-015 at 113, “We acknowledge, however, that despite recent strides, designing and delivering financial products within a complex landscape of legal, regulatory, policy, and practical constraints is not, in most cases, the core competency of either utility energy efficiency program Staff or Commission regulatory Staff. . . it is clear that additional expertise will be needed.”</p> <p>D.12-05-015 at 114-115 the utilities will pay for an expert financing consultant to convene working groups to develop pilot programs for certain market segments. The decision also recommends the consideration of additional or sub-groups to “apply specialized knowledge to such issues as the best ways to address legal/statutory changes or regulatory approvals or waivers, protocols for billing and payment aggregation, and determining roles and potential institutional responsibilities to perform the necessary functional roles from borrower outreach and education to capital provision, loan origination, and credit enhancement.”</p>	
---	---	--

<p>obligation with a meter and disconnection for non-utility matters be satisfactorily resolved. (NCLC Jan 30 Reply at 9; NCLC Feb 29, 2012 Reply at 3).</p> <ul style="list-style-type: none"> • <i>Consumer Protections with Efficiency Loans</i> <p>NCLC provided some detail as to the types of consumer protections that must be in place before OBF/OBR products are targeted to residential consumers and tenants. NCLC discussed recent behavioral economic research that indicates borrowers are likely to overestimate the benefits of energy efficiency savings in relation to the cost of the loan and the risk that the savings will not be realized. NCLC proposed that in light of this tendency, simple, standardized loan terms will be critical to any OBF/OBR program for residential homeowners and tenants (e.g., fixed rates of interest, standardized loan lengths and full amortization). Loan documents must be understandable. NCLC noted that disclosure alone is insufficient to address and prevent abusive loan practices and points out the long history of abusive home improvement contractor scams. NCLC also raised an important consumer protection in consumer lending transactions, ensuring that a subsequent creditor is subject to the claims and defenses a consumer has against the seller or original creditor in the context of energy efficiency loans.</p> <p>(NCLC Feb 22, 2012 Comments at 7 -10)</p> <ul style="list-style-type: none"> • <i>Adequate Notice</i> <p>NCLC discussed the legal challenges for ensuring there is proper notice to future owners of a property if an efficiency loan follows the meter. NCLC pointed out the numerous unresolved issues related to how</p>		
--	--	--

<p>the assumption of a loan would work in practice and the legal ramifications of requiring an assumption of such a loan. (NCLC Feb 29, 2012 Reply at 9-11)</p> <p>NCLC discussed the limitations of relying on Mello-Roos fees to transfer an OBF/OBR loan obligation. The OBF/OBR loan is personally tailored for a consumer's particular unit, usage and credit profile and the Mello-Roos fees are used to finance public improvements and services such as streets, schools and police. (NCLC Feb 29, 2012 Reply at 8)</p>		
<p><i>Necessary Consumer Protections for Energy Efficiency Loans</i></p> <ul style="list-style-type: none"> • <i>Protecting Access to Essential Utility Service</i> <p>NCLC has been strongly opposed to any movement to allow residential customers to be exposed to disconnection for non-payment of an energy efficiency loan. Furthermore, NCLC urged that in the event of a partial payment, the funds first be applied to the energy charges and any remainder would then apply to the energy efficiency debt. NCLC also raised concerns about EDF's proposal regarding the pro rata treatment of partial payments. For low-income consumers, this approach would increase the risk of disconnection of essential utility service. NCLC also pointed out that electricity and natural gas are not ordinary commodities but essential services affecting consumers' health, safety and well-being and the very habitability of the home.</p> <p>(NCLC Jan. 25, 2012 Comments at 3,9; NCLC Jan 30 Reply at 3-5, 8-9; (NCLC Feb 22, 2012 Comments at 3-4, 14-15; NCLC Feb 29, 2012 Reply at 6-7)</p>	<p><i>Detailed discussion of the complexities of creating residential efficiency loans</i></p> <p>D.12-05-015 at 104, "Regarding on-bill repayment, many other parties raised numerous legal, policy and operational concerns and questions related to attachment of the debt to the meter, disconnection of utility service for nonpayment to third-parties, transference of the debt-obligation to the next tenant or owner, and notification of landlords and successor owners or tenants."</p> <p>D.12-05-015 at 105, "Many parties . . . oppose disconnection being allowed for on-bill repayment for residential customers, particularly low-income customers (those that qualify for CARE,[footnote omitted]) due to concerns about keeping general levels of service disconnection low and fears that lower-income household could find themselves overburdened with energy improvement debt."</p>	<p>Yes</p>

<p>NCLC’s opening comments pointed out the need to address the reconnection terms and procedures after a customer is disconnected due to non-payment of the energy efficiency loan. The decision makes particular note of this. (NCLC Jan. 25, 2012 Comments at 7, 9)</p> <ul style="list-style-type: none"> • <i>Bill neutrality</i> <p>From its first set of comments filed on the issue of energy efficiency financing, NCLC has consistently urged the Commission to look at the ratepayer’s ability to assume the risk that measures will not achieve expected savings. (NCLC Jan. 25, 2012 Comments at 2; NCLC Feb. 22, 2012 Comments at 3))</p> <p>NCLC provided a convincing analysis that raised doubts about the ability to reach residential bill neutrality on a broad scale in California for single family and multi-family residences. The Decision specifically cites to NCLC’s analysis. (NCLC Feb. 22, 2012 Comments at 5-7 and Appx A)</p> <ul style="list-style-type: none"> • <i>Worker Training/Quality Control</i> <p>NCLC also recommended ensuring quality workers with the appropriate training and certification as well as independent third-party audits pre-and post- work to document the effectiveness of measures. (NCLC Jan. 25, 2012 Comments at 6; NCLC April 16, 2012 Reply at 5)</p> <p>NCLC raised concerns about NRDC’s proposal to allow energy savings to be based on an estimate. Instead of relying on modeled energy savings, NCLC supported proposals to measuring actual performance</p>	<p>D.12-05-015 at 105 calls out NCLC’s recommendation that the staff proposal on energy efficiency financing also include “Specifications of what happens procedurally when utility service is disconnected due to nonpayment, and how utility service can be re-established (NCLC).”</p> <ul style="list-style-type: none"> • <i>Bill neutrality</i> <p>D.12-05-015 at 123, “Another controversial subject for [the residential] market segment is the concept of ‘bill neutrality,’ and whether it is a necessary or appropriate requirement alongside on-bill repayment.</p> <p>D.12-05-015 at 123, “Opinions among experts in the comments and at the workshops also differ in this area. While it would seem superficially appealing to offer loans along with efficiency projects that ensure a customer’s total bill actually goes down, there are many factors besides the energy efficiency project that may determine whether that result actually occurs.” The decision lists a number of factors including the loan duration, customer behavior, whether there were additional reasons for the homeowner to pursue high levels of efficiency improvements (e.g., comfort or sound management), the climate zone, the quality of the installation work and changes in the number of residents or number of appliances and equipment.</p>	
--	--	--

<p>of efficiency measures. (NCLC Jan. 30 Reply at 6-8) (NCLC Feb. 22, 2012 Comments at 2)</p> <p>• <i>Dispute Resolution</i></p> <p>NCLC has raised concerns about the need for a strong dispute resolution process for all aspects of the efficiency loan, including marketing practices, disputes with lenders and disputes with contractors. (NCLC Feb. 22, 2012 Comments at 4; NCLC Feb. 29, 2012 Reply at 12-13)</p>	<p>D.12-05-015 at 124, “In addition, NCLC, in its second-round comments on the ALJ financing ruling, offers some convincing evidence and statistics related to the likelihood of achieving bill neutrality among California residences. In short, it may be that the math does not work in many California residential buildings; in order to achieve deeper energy efficiency savings through more comprehensive projects such as replacement of HVAC systems, windows and insulation, bill neutrality many not be possible in the average California single-family residence. That particularly could be the case in moderate climates near the coast or where loans are repaid in less than 15 years.”</p> <p>• <i>Dispute Resolution</i></p> <p>D.12-05-015 at 118, “In terms of defining functions and roles, the consultant should assume that a servicing agent will be responsible for all special adjustments, the originator will be responsible for consumer inquiries, and there could be a separate program dispute resolution process for issues with contractors.”</p>	
<p><i>Data Collection</i></p> <p>NCLC disagreed with SoCal Edison’s opposition to data collection and stated that it believes data collection is essential for evaluating the desirability of a residential on-bill repayment program and laying the groundwork for a market for these loan products.</p>	<p><i>Decision requires detailed data collection</i></p> <p>D.12-05-015 at 108 requiring the utilities to contribute to a larger database of financing-related information including “credit scores, bill payment history, debt repayment history, estimated and actual energy savings.”</p>	<p>Yes</p>

<p>NCLC even proposed specific data points for the multi-family efficiency loan pilots. These data points include a collection covering data on subsequent tenant assumption of the loan or refusal, usage and payment history and incidents of partial payments and vacancies.</p> <p>(NCLC April 16, 2012 Reply at 5; NCLC April 9, 2012 Comments at 4)</p> <p>NCLC recommended proceeding with caution and first building a foundation that OBR products are working and are scalable for the different rate classes. (NCLC Feb. 22, 2012 Comments at 2)</p>	<p>See also D.12-05-015 at 116, “we also require the utilities to begin the process, in parallel, of developing for California or possibly in collaboration with a possible national approach, a database of financing-related project performance and repayment data . . .”; and D.12-05-015 at 124-125 (collection of data to build a loan repayment record)</p>	
<p><i>Residential Multi-Family Financing</i></p> <p>NCLC identified problems with multi-unit properties and noted the complexities of transferring the loan obligation to the next tenant as the loan would be based on the credit worthiness of the original tenant. NCLC argued that the net neutrality assurances would be even more difficult with rental units with the higher rates of turnover. (NCLC Jan. 25, 2012 Comments at 4-5)</p> <p>NCLC supported the conditioned and targeted pilot for multifamily housing proposed by CHPC to address the untapped potential efficiency savings in the multi-family residential sector and highlighted the low-income consumer protections necessary in the design of such a pilot. (NCLC Feb. 29, 2012 Reply at 14-15; NCLC April 16, 2012 Reply at 4)</p> <p>NCLC recommended that the Commission include protections if OBF/OBR were extended to renters. Subsequent tenants</p>	<p><i>Residential Multi-Family Financing</i></p> <p>D.12-05-015 at 126, “While some workshop participants and commenters advocated for starting an on-bill repayment approach with the ‘easiest’ market segment of residences, which is usually, according to conventional wisdom, the single family segment, in this case we believe that starting with multifamily buildings may offer the opportunity for more success.”</p> <p>D.12-05-015 at 126 the multifamily segment is an underserved market and “Multifamily buildings that house primarily low-moderate income households may provide a unique test bed for multiple aspects of a financing program. . . . Many of the energy improvements most applicable to these buildings (central water heating, public area lighting and space conditioning,</p>	<p>Yes</p>

<p>must fully understand the obligations they are taking on and a loan loss reserve should be created to cover any shortfall.</p> <p>(NCLC Jan. 25, 2012 Comments at 5)</p> <p>NCLC also raised strong concerns about the scenario where a subsequent tenant is saddled with a loan that is not commensurate with the estimated savings based on the profile of the original tenant.</p> <p>(NCLC Jan. 25, 2012 Comments at 10)</p> <p><i>Low-Income Concerns</i></p> <p>NCLC had delineated two scenarios in which a low-income consumer could benefit from innovative energy efficiency financing: (1) to cover energy efficiency in multifamily dwellings where rent and utility payments are capped and consumers are protected from disconnection and (2) in the case of emergency replacements of large appliances.</p> <p>(NCLC Feb. 29, 2012 Reply at 3; NCLC Feb. 29, 2012 Reply at 15-16)</p>	<p>building shell improvements, air sealing) will benefit more than one household unit at a time.”</p> <p>D.12-05-015 at 127. The decision lists areas that will need to be addressed, including landlord approval, a “notification process for successor tenants,” a “desire for limits or protections, such as bill neutrality, that the costs of measures undertaken, and associated repayment obligation, will imply a reasonable debt relative to the anticipated bill savings.”</p> <p>D.12-05-015 at 128. The decision provides initial guidance for multifamily efficiency financing program design features, including: starting with a bill neutrality objective, especially for credit-challenged or lower-income populations; considering an additional cushion beyond bill neutrality to minimize negative impact on consumers; start with placing the loan obligation on common-meters. A second state product could work on tying the payment obligation to individual meters. “This will require greater attention to notification and disclosure, as well as possibly credit re-qualification by tenants.” The guidance also includes facilitating the combining of an energy efficiency loan opportunity with the solving of another problem such as the need to address equipment failure or a health or safety matter.</p>	
---	--	--

B. Duplication of Effort (§§ 1801.3(f) & 1802.5):

	Claimant	CPUC Verified
a. Was the Office of Ratepayer Advocates (ORA) a party to the proceeding? ³	Yes	Verified
b. Were there other parties to the proceeding with positions similar to yours?	Yes	Verified
c. If so, provide name of other parties: The California Housing Partnership Corporation (CHPC), Greenlining, The Utility Reform Network (TURN), were parties that shared positions similar to NCLC's positions. Other parties to the proceeding include Pacific Gas and Electric Company (PG&E), San Diego Gas & Electric Company (SDG&E), Southern California Gas Company (SoCalGas), Southern California Edison Company (SCE).		Verified
d. Describe how you coordinated with ORA and other parties to avoid duplication or how your participation supplemented, complemented, or contributed to that of another party: Throughout the scope of this larger proceeding stemming from the ALJ's January 10, 2012 Ruling on Energy Efficiency Financing, NCLC has remained engaged and cooperative with DRA. NCLC's position on the financing issues has aspects that were similar at a high level with the groups listed above, but often differed in the details on the feasibility of designing an on-bill repayment program for low-income consumers. NCLC maintained a line of communication with DRA and the consumer and housing groups listed above to try and determine whether it would be possible to have a more coordinated position on residential on-bill repayment/on-bill financing for low-moderate income single family and multifamily situations. Before the 3-day workshop, NCLC coordinated a conference call with DRA and the above listed consumer and housing groups to determine positions and the parties going into the workshop. NCLC maintained light contact with the consumer and housing groups throughout the rest of the proceeding to attempt to negotiate a more united low-income consumer position. In the end, NCLC was able to negotiate a more coordinated position with the California Housing Partnership Corporation to support, with several conditions, a multi-family financing pilot, however, there remained a difference in policy positions with the other consumer groups as to the feasibility of designing a low-moderate single family on-bill repayment/financing program.		Verified; we make no reduction to NCLC's hours for duplication of efforts with other parties.

³ The Division of Ratepayer Advocates was renamed the Office of Ratepayer Advocates effective September 26, 2013, pursuant to Senate Bill No. 96 (Budget Act of 2013), which was approved by the Governor on September 26, 2013.

PART III: REASONABLENESS OF REQUESTED COMPENSATION**A. General Claim of Reasonableness (§§ 1801 & 1806):**

a. Concise explanation as to how the cost of Claimant's participation bears a reasonable relationship with benefits realized through participation:	CPUC Verified
<p>NCLC's involvement in this proceeding has been limited to focusing on the issues around the impact of energy efficiency financing, and in particular, on-bill financing and repayment on low-income residential consumers and low-income renters. NCLC provided unique consumer expertise as its position in this proceeding was based on the expertise of its energy and utilities' team and its consumer financial services experts.</p> <p>NCLC is a nationally recognized leader in consumer financial services laws and publishes over a dozen legal treatises. NCLC's legal manuals cover an array of consumer law topics from credit and banking law (Truth in Lending, Fair Credit Reporting, Consumer Banking and Payments Law, the Cost of Credit, Credit Discrimination), to debtor rights (Consumer Bankruptcy Law and Practice, Fair Debt Collection, Foreclosures, Repossessions), to Unfair Deceptive Acts and Practices and Access to Utility Service. In the assessment of the potential impact of on-bill repayment which involves the intersection of consumer finance and utility policy, including the assessment of which issues needed further clarity and resolution, NCLC relied on two seasoned consumer law experts, Tara Twomey and Margot Saunders.</p> <p>NCLC avoided duplication of internal resources by tapping Margot Saunders for focused and limited strategy development with our positions in comments and our outreach to other parties at the workshop. NCLC relied on Tara Twomey for to be a resource for the application of consumer lending laws to the different proposals put forth by different parties, for drafting of portions of the comments concerning consumer finance law and policy and for coverage of two presentations by financial institutions and credit-challenged populations during Day 2 of the workshop focused on residential consumers. Tara was NCLC's legal resource on consumer lending laws. John Howat, NCLC's expert on energy efficiency programs attended the 2nd and 3rd day of the workshops as those days were focused on residential efficiency financing and implementation matters. Mr. Howat provided expertise on the energy efficiency program design for single family and multi-family housing and provided analysis of whether bill neutrality was feasible for residential Californians. Olivia Wein, was the lead NCLC attorney covering this proceeding. Ms. Wein coordinated the NCLC team in the development of our policy positions, took the lead drafting the comments and was responsible for managing the administrative aspects of NCLC's participation in this proceeding, such as filing various motions and the intervenor fee notice of intent and this claim filing. Ms. Wein covered the 3-day efficiency workshop telephonically to contain costs in order to identify areas for additional research to draft NCLC's comments following the workshop.</p> <p>It is difficult to assign a precise dollar value to the benefit to ratepayers from</p>	<p>Verified</p>

<p>NCLC’s participation, but NCLC’s contribution to movement away from an aggressive on-bill repayment program for single-family owners and low-moderate income multi-family housing owners and/or tenants, to a more cautious approach protects residential consumers from the potential hazards of a hastily pulled-together on-bill repayment program. Consumers credit scores could have been damaged by loans where the promise of bill neutrality was not met. Consumer confusion in the case of subsequent owners or tenants who are asked to assume the efficiency loans that they do not understand or which are no longer bill neutral for their situation would have generated consumer upset at these financing products. It is not clear that simple reliance on notice would avoid that outcome. The issue of who would could do the efficiency work and a clear dispute resolution system also need to be established before any on-bill repayment program moves forward in order to provide consumer protections against shoddy work or rip-offs from fly-by-night contractors. These are just some of the consumer harms avoided as the Decision builds in a more thoughtful and information-based approach to the efficiency finance products that will be targeted at residential consumers.</p> <p>Conversely, NCLC’s support for a controlled pilot for energy efficiency financing for multi-family housing could help improve the efficiency of low-moderate income properties that cannot otherwise invest in the common-building, common area measures that benefit all the residents of the building. NCLC and CHPC have developed a list of consumer protections for low-income tenants in these initial pilot projects.</p>									
<p>b. Reasonableness of Hours Claimed.</p> <p>NCLC has documented in great detail the hours claimed in this filing and has drawn clear connections between the expenditure of its resources to the positive outcomes for consumers in this case. The time and effort NCLC has expended has directly resulted in a Commission with provisions that provide substantial residential consumer protections in the development of energy-efficiency financing tools. Additionally, NCLC has voluntarily reduced the number of hours reported here for which it is claiming compensation.</p>			Verified						
<p>c. Allocation of Hours by Issue</p> <table><tr><td>SINGLE FAM</td><td>Work related to analysis of the intended and unintended impacts of efficiency loan products on single-family owners. Includes data collection necessary to demonstrate the viability of on bill financing/repayment and residential energy efficiency financing products</td><td>Percent of Time 23%</td></tr><tr><td>CONS PROT</td><td>Work related to necessary residential consumer protections should efficiency loans be targeted at residential consumers, particularly low-income, credit-challenged and low-income residential tenants (e.g.,</td><td>35%</td></tr></table>			SINGLE FAM	Work related to analysis of the intended and unintended impacts of efficiency loan products on single-family owners. Includes data collection necessary to demonstrate the viability of on bill financing/repayment and residential energy efficiency financing products	Percent of Time 23%	CONS PROT	Work related to necessary residential consumer protections should efficiency loans be targeted at residential consumers, particularly low-income, credit-challenged and low-income residential tenants (e.g.,	35%	
SINGLE FAM	Work related to analysis of the intended and unintended impacts of efficiency loan products on single-family owners. Includes data collection necessary to demonstrate the viability of on bill financing/repayment and residential energy efficiency financing products	Percent of Time 23%							
CONS PROT	Work related to necessary residential consumer protections should efficiency loans be targeted at residential consumers, particularly low-income, credit-challenged and low-income residential tenants (e.g.,	35%							

	disconnections, reconnections, dispute resolution, notice, worker and quality control, consumer finance laws, transferability of loan obligations)			
MULTI-FAM	Work related to issues stemming from efficiency loans designed or targeted at multifamily residents and owners.	23%		
GP	General Participation - work related to general participation/procedural/case management.	3%		
COORD	Coordination - work related to coordination with other parties; conference calls, emails and correspondence on strategy, positions and filings.	4%		
GEN/MI	Work related to analysis, comments and strategy development where time was difficult to separate out into separate categories.	12%		

B. Specific Claim:*

CLAIMED						CPUC AWARD		
ATTORNEY, EXPERT, AND ADVOCATE FEES								
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Hours	Rate \$	Total \$
Olivia Wein	2012	111.75	\$299	D.09-04-028 along with D.07-01-009 and ALJ-267 (2 nd request of a 5% step increase for the 13+ years of experience)	\$33,413.25	111.75	\$305	\$34,083.75
John Howat	2012	41.25	\$235	D.09-05-017	\$9,693.75 ⁴	41.25	\$240	\$9,900.00
Margot Saunders	2012	2.75	\$350	Attachment 4	\$962.50 ⁵	2.75	\$350	\$962.50
Tara Twomey	2012	18.35	\$300	Attachment 4	\$5,505.00 ⁶	18.35	\$300	\$5,505.00
Subtotal: \$49,574.50						Subtotal: \$50,451.25		

⁴ In the original claim, the total listed here was \$5,505.00. A mathematical error occurred in this calculation. The correct amount is \$9,693.75 (41.25 x \$235).

⁵ In the original claim, the total listed here was \$9,693.75. A mathematical error occurred in this calculation. The correct amount is \$962.50 (2.75 x \$350).

⁶ In the original claim, the total listed here was \$1,312.50. A mathematical error occurred in this calculation. The correct amount is \$5,505.00 (18.35 x \$300).

OTHER FEES								
Describe here what OTHER HOURLY FEES you are Claiming (paralegal, travel **, etc.):								
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Hours	Rate	Total \$
Jillian McLaughlin	2012	16	\$110	Attachment 4	\$1,760.00	16	\$55	\$880.00
John Howat	2012	8	\$117.50	Travel from Boston to SF for 2 of the 3 day workshop of financing	\$940.00	8	\$120	\$960.00
Subtotal: \$2,700.00						Subtotal: \$1,840.00		
INTERVENOR COMPENSATION CLAIM PREPARATION **								
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Hours	Rate	Total \$
Olivia Wein	2012	15	\$149.50	½ requested regular hourly rate. See Attachment 4	\$2,242.50	11.75 ⁷	\$152.50	\$1,791.87
Subtotal: \$2,242.50						Subtotal: \$1,791.87		
COSTS								
#	Item	Detail			Amount	Amount		
3	Conference Call	NCLC hosted a 1 hour conference call on February 2, 2012 with DRA, TURN, Greenlining and CHCP. See NCLC Time slips dated Feb. 2, 2012, coded COORD.			\$65.68	\$65.68		
3	J. Howat invoice financing workshop	Airfare and ground (\$389) and lodging (\$411) for John Howat on Feb. 8, 2012 – Feb. 11, 2010 for the energy financing workshop in SF.			\$800.00	\$800.00		
Subtotal: \$865.65						Subtotal: \$865.68		
TOTAL REQUEST: \$55,382.65						TOTAL AWARD: \$54,948.80		
Attorney		Date Admitted to CA BAR ⁸		Member Number		Actions Affecting Eligibility (Yes/No?) If “Yes”, attach explanation		
Olivia Wein ⁹		December 7, 1995		178926		No; please note from January 1, 2002 until present Olivia Wein has been an inactive member of the California State Bar.		

⁷ The timesheets submitted with NCLC's claim show a total of 11.75 hours as time spent on preparing its Icomp Claim.

⁸ This information may be obtained at: <http://www.calbar.ca.gov/>.

⁹ Olivia Wein is currently an active member of the Washington D.C. Bar. This information may be obtained at: <http://www.dcb.org/membership/find-a-member.cfm>.

C. Additional Comments on Part III:

Comment #	Description/Comment												
Comment 1	<p>Time Slips for NCLC's Attorneys and Expert Consultant</p> <p>The following is a key to the codes used in Attachments 2 and 5:</p> <table> <tr> <td>SINGLE FAM</td><td>Work related to analysis of the intended and unintended impacts of efficiency loan products on single-family owners.</td></tr> <tr> <td>CONS PROT</td><td>Work related to necessary residential consumer protections should efficiency loans be targeted at residential consumers, particularly low-income, credit-challenged and low-income residential tenants (e.g., disconnections, reconnections, dispute resolution, notice, worker and quality control, consumer finance laws, transferability of loan obligations)</td></tr> <tr> <td>MULTI-FAM</td><td>Work related to issues stemming from efficiency loans designed or targeted at multifamily residents and owners.</td></tr> <tr> <td>GP</td><td>General Participation - work related to general participation/procedural/case management.</td></tr> <tr> <td>COORD</td><td>Coordination - work related to coordination with other parties; conference calls, emails and correspondence on strategy, positions and filings.</td></tr> <tr> <td>GEN/MI</td><td>Work related to analysis, comments and strategy development where time was difficult to separate out into separate categories.</td></tr> </table>	SINGLE FAM	Work related to analysis of the intended and unintended impacts of efficiency loan products on single-family owners.	CONS PROT	Work related to necessary residential consumer protections should efficiency loans be targeted at residential consumers, particularly low-income, credit-challenged and low-income residential tenants (e.g., disconnections, reconnections, dispute resolution, notice, worker and quality control, consumer finance laws, transferability of loan obligations)	MULTI-FAM	Work related to issues stemming from efficiency loans designed or targeted at multifamily residents and owners.	GP	General Participation - work related to general participation/procedural/case management.	COORD	Coordination - work related to coordination with other parties; conference calls, emails and correspondence on strategy, positions and filings.	GEN/MI	Work related to analysis, comments and strategy development where time was difficult to separate out into separate categories.
SINGLE FAM	Work related to analysis of the intended and unintended impacts of efficiency loan products on single-family owners.												
CONS PROT	Work related to necessary residential consumer protections should efficiency loans be targeted at residential consumers, particularly low-income, credit-challenged and low-income residential tenants (e.g., disconnections, reconnections, dispute resolution, notice, worker and quality control, consumer finance laws, transferability of loan obligations)												
MULTI-FAM	Work related to issues stemming from efficiency loans designed or targeted at multifamily residents and owners.												
GP	General Participation - work related to general participation/procedural/case management.												
COORD	Coordination - work related to coordination with other parties; conference calls, emails and correspondence on strategy, positions and filings.												
GEN/MI	Work related to analysis, comments and strategy development where time was difficult to separate out into separate categories.												
Comment 2	<p>Direct Expenses</p> <p>NCLC hosted a 1 hour conference call on February 2, 2012 with DRA, TURN, Greenlining and CHPC to discuss individuation groups positions and concerns regarding on-bill repayment for residential consumers and tenants. <i>See</i> NCLC Timeslip dated Feb. 2, 2012, coded COORD.</p> <p>Airfare and ground (\$389) and lodging (\$411) for John Howat on Feb. 8, 2012 – Feb. 11, 2010 for the energy financing workshop in SF</p>												
Comment 3	<p>Basis of Request for NCLC's Hourly Rates</p> <p>NCLC believes that it has provided sufficient support for the requested rate for Staff Attorneys, Olivia Wein, Margot Saunders and Tara Twomey, Senior Policy Analyst, John Howat, and paralegal, Jillian McLaughlin under the Commission's adopted practices. However, if the Commission has any questions or concerns about this request, NCLC respectfully requests that it be given an opportunity to answer any questions and provide further support to its claim.</p>												

D. CPUC Disallowances & Adjustments:

Item	Reason
1. Adoption of Olivia Wein's 2012 hourly rate.	Resolution ALJ-281 sets 2012 rates for Attorneys with 13-plus years of experience at \$305-\$545 per hour. Having been licensed in 1995, the Commission finds Olivia Wein to be within the 13-plus year range. Wein has over 17 years of legal practice focusing on low-income consumer protection within the public utilities regulatory area. After reviewing her credentials, the Commission adopts the rate of \$305 per hour for work Wein completed in 2012. \$305 reflects both the 5% step-increase, as well as the 2.2% Cost-of-Living Adjustment applied to her 2012 hourly rates.
2. Adoption of Margot Saunders' 2012 hourly rate.	Resolution ALJ-281 sets 2012 rates for Experts with 13-plus years of experience at \$160-\$400 per hour. Margot Saunders has been an expert in consumer lending laws and utility commission proceedings for over 30 years. She is a national expert in consumer law and has testified before congress on a large range of consumer credit issues. After reviewing Saunders' credentials, the Commission adopts the rate of \$350 per hour for work Saunders completed in 2012. \$350 takes into account the 2.2% Cost-of-Living Adjustment applied to 2012 hourly rates.
3. Adoption of Tara Twomey's 2012 hourly rate.	Resolution ALJ-281 sets 2012 rates for Experts with 13-plus years of experience at \$160-\$400 per hour. Twomey's advanced degree, paired with her consumer bankruptcy experience enables her to fall within the range of experts with 13-plus years of experience. As such, the Commission adopts the rate of \$300 per hour for work Twomey completed in 2012.
4. Adoption of Jillian McLaughlin's 2012 hourly rate.	The Commission has previously issued decisions awarding research assistants for their work in proceedings (<i>See</i> D.10-05-009). Jillian McLaughlin has a political science background, as well as Research Assistant experience since 2010. After reviewing McLaughlin's credentials, the Commission adopts the rate of \$55 per hour for work McLaughlin completed in 2012.

PART IV: OPPOSITIONS AND COMMENTS**A. Opposition: Did any party oppose the Claim?**

No

B. Comment Period: Was the 30-day comment period waived (*see* Rule 14.6(2)(6))?

Yes

FINDINGS OF FACT

1. National Consumer Law Center has made a substantial contribution to D.12-05-015.
2. The requested hourly rates for National Consumer Law Center's representatives are comparable to market rates paid to experts and advocates having comparable training and experience and offering similar services.
3. The claimed costs and expenses are reasonable and commensurate with the work performed.
4. The total of reasonable compensation is \$54,948.80.

CONCLUSION OF LAW

1. The Claim, with any adjustment set forth above satisfies all requirements of Public Utilities Code §§ 1801-1812.

ORDER

1. National Consumer Law Center is awarded \$54,948.80.
2. Within 30 days of the effective date of this decision, Pacific Gas and Electric Company, San Diego Gas & Electric Company, Southern California Edison Company, and Southern California Gas Company shall each pay National Consumer Law Center (NCLC) their respective shares of the award, based on their California-jurisdictional electric and gas revenues for the 2011 calendar year, reflecting the year in which the proceeding was primarily litigated. Payment of the award shall include compound interest at the rate earned on prime, three-month non-financial commercial paper as reported in Federal Reserve Statistical Release H.15, beginning September 30, 2012, the 75th day after the filing of NCLC's request, and continuing until full payment is made.

3. The comment period for today's decision is waived.
4. This decision is effective today.

Dated _____, at San Francisco, California.

APPENDIX**Compensation Decision Summary Information**

Compensation Decision:		Modifies Decision?	No
Contribution Decision(s):	D1205015		
Proceeding(s):	R0911014		
Author:	ALJ Darwin Farrar		
Payer(s):	Pacific Gas and Electric Company; San Diego Gas & Electric Company; Southern California Edison Company; Southern California Gas Company		

Intervenor Information

Intervenor	Claim Date	Amount Requested	Amount Awarded	Multiplier?	Reason Change/Disallowance
National Consumer Law Center (NCLC)	7/17/2012	\$55,382.65	\$54,948.80	No	Change in hourly rates.

Advocate Information

First Name	Last Name	Type	Intervenor	Hourly Fee Requested	Year Hourly Fee Requested	Hourly Fee Adopted
Olivia	Wein	Attorney	NCLC	\$299	2012	\$305
John	Howat	Expert	NCLC	\$235	2012	\$240
Margot	Saunders	Expert	NCLC	\$350	2012	\$350
Tara	Twomey	Expert	NCLC	\$300	2012	\$300
Jillian	McLaughlin	Research Assistant	NCLC	\$110	2012	\$55

(END OF APPENDIX)